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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TOMMY STEWART,

Petitioner,

vs.

CALVIN JOHNSON, *et al.*,

Respondents.

Case No.: 2:21-cv-01490-APG-BNW

**UNOPPOSED MOTION FOR
ENLARGEMENT OF TIME TO FILE
RESPONSE TO SECOND AMENDED
PETITION FOR WRIT OF HABEAS
CORPUS (ECF NO. 15)**

(FIRST REQUEST)

Respondents move this Court for an enlargement of time of 30 days from the current due date of July 7, 2022, up to and including August 8, 2022, in which to file their response to Tommy Stewart's Second Amended Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 15). This motion is made pursuant to FED. R. CIV. P. 6(b) and Rule 6-1 of the Local Rules of Practice and is based upon the attached declaration of counsel. This is the first enlargement of time sought by Respondents for the response and the request is brought in good faith and not for the purpose of delay.

DATED: July 6, 2022.

AARON D. FORD
Attorney General

By: /s/ Mariana Kihuen
Mariana Kihuen (Bar. No. 12241)
Deputy Attorney General

DECLARATION OF MARIANA KIHUEN

I, MARIANA KIHUEN, being first duly sworn under oath, deposes and states as follows:

1. I am an attorney licensed to practice law in all courts within the State of Nevada and am employed as a Deputy Attorney General in the Office of the Nevada Attorney General. I have been assigned to represent Respondents in *Tommy Stewart v. Calvin Johnson, et al.*, Case No. 2:21-cv-01490-APG-BNW, and as such, have personal knowledge of the matters contained herein.

2. This Motion is made in good faith and not for the purpose of delay.

3. The deadline to respond to Stewart's second amended petition is July 7, 2022.

4. I have been unable with due diligence to timely complete the response herein.

5. The case was reassigned to me when I joined the Post-Conviction Division on February 7, 2022. I filed a Notice of Appearance on February 11, 2022.

6. I have been working diligently on this case and other Federal and State habeas petitions, including *Kristian Heinz Walters v. Perry Russell, et al.* (Case No. 3:21-cv-00405-MMD-CSD), *David Herrera v. State of Nevada*, (A-22-853335-W), *Marvin Miller v. State of Nevada* (Case No. A-22-853751-W), and *Steven Proctor v. State of Nevada* (A-22-853755-W). I am the newest member of the Post-Conviction Division of the Attorney General's office and am still adjusting to my progressively increasing federal habeas caseload, as our division is currently short-staffed.

7. I am scheduled to undergo medical surgery on July 19, 2022 and will likely be unavailable to work on this petition for approximately two weeks thereafter.

8. Counsel needs additional time to draft a Response and to get final review and approval from the supervising Senior Deputy Attorney General.

9. On July 6, 2022, counsel for Stewart, Assistant Federal Public Defender Kimberly Sandberg, indicated by email she did not oppose this request.

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3 Executed on July 6, 2022.

4	<u>/s/ Mariana Kihuen</u>
5	Mariana Kihuen (Bar No. 12241)

8 IT IS SO ORDERED:

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UNITED STATES DISTRICT JUDGE

11 DATED: July 7, 2022

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing *Unopposed Motion for Enlargement of Time to Answer Second Amended Petition for Writ of Habeas Corpus (ECF No. 15) (First Request)* with the Clerk of the Court by using the CM/ECF system on July 6, 2022.

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on July 6, 2022, I served a copy of the foregoing *Unopposed Motion for Enlargement of Time to Answer Second Amended Petition for Writ of Habeas Corpus (ECF No. 15) (First Request)*, to be served, by U.S. District Court CM/ECF Electronic Filing, on the following:

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/s/ C. Martinez
An employee of the Office of the Attorney General